

## Message Text

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PAGE 01 STATE 221948  
ORIGIN OES-09

INFO OCT-01 EA-10 L-03 ISO-00 COME-00 ACDA-12 AGRE-00  
AID-05 CEA-01 CEQ-01 CG-00 CIAE-00 DLOS-09  
DODE-00 DOTE-00 EB-08 EPA-01 SOE-02 DOE-15 FMC-01  
TRSE-00 H-01 INR-10 INT-05 IO-13 JUSE-00 NSAE-00  
NSC-05 NSF-01 OMB-01 PA-01 PM-05 SP-02 SS-15  
ICA-11 /148 R

DRAFTED BY OES/OFA/OCA:MDBUSBY:L/OES:DCOLSON:CSA  
APPROVED BY OES/OFA/OCA-MR. BUSBY  
EA/ANZ-MR. BODDE  
NMFS-MR. BROUILLARD  
OES/OFA/FA-MR. HALLMAN

-----061499 011255Z /50

R 312056Z AUG 78  
FM SECSTATE WASHDC  
TO AMEMBASSY PORT MORESBY  
INFO AMEMBASSY CANBERRA

CINCPAC HONOLULU HAWAII 1205  
AMEMBASSY TOKYO  
CINCPAC REP GUAM

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E.O. 11652: GDS

TAGS: EFIS, PLOS

SUBJECT: US LAW ON HIGHLY MIGRATORY SPECIES

REF: PORT MORESBY 1130

1. RE QUESTIONS RAISED REFTTEL, DEPT IS DOUBTFUL THAT  
GPNG WOULD SERIOUSLY CONTEMPLATE INTERNATIONAL COURT OF  
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PAGE 02 STATE 221948

JUSTICE ACTIONS WITH RESPECT TO U.S. HIGHLY MIGRATORY  
SPECIES LAW AND POLICY. HYPOTHETICAL QUESTIONS WHICH  
COME TO MIND RELATING TO GPNG LEGAL ACTION AGAINST THE  
U.S. ARE FASCINATING, ESPECIALLY SINCE TO DEPT'S KNOWLEDGE  
GPNG IS NOT A FORMAL PARTY TO GATT AND HAS NOT ACCEPTED  
THE COMPULSORY JURISDICTION OF THE INTERNATIONAL COURT OF  
JUSTICE.

2. RE NARROW QUESTION OF GATT VIOLATION OF MAGNUSON ACT EMBARGO PROVISIONS WERE INVOKED, WE WOULD NOT CONCEDE THAT SUCH IMPORT RESTRICTIONS VIOLATE GATT. THERE ARE AT LEAST SIX DIFFERENT SITUATIONS WHERE EMBARGO PROVISIONS OF MAGNUSON ACT MAY BE INVOKED; AND GATT DOES PROVIDE FOR IMPORT RESTRICTIONS IN CERTAIN CASES TO CONSERVE EXHAUSTIBLE NATURAL RESOURCES. ABOUT ALL THAT CAN BE SAID IS THAT GATT ISSUE WOULD HAVE TO BE LOOKED AT ON A CASE-BY-CASE BASIS.

3. POINT MADE BY WILSON THAT U.S. LAW EXCLUDES JURISDICTION OVER SOME HIGHLY MIGRATORY SPECIES AND NOT OTHERS, CANNOT BE DISPUTED ON SCIENTIFIC GROUNDS. DURING SPRFO NEGOTIATIONS IN SUVA, USDEL DID NOT TRY TO JUSTIFY THIS DISTINCTION, BUT POINTED OUT IN LOW KEY MANNER THAT NATIONAL LAWS ARE WRITTEN TO PROTECT NATIONAL INTERESTS, AND THAT IT WAS IN OVERALL INTEREST OF U.S. FISHING COMMUNITY TO HIGHLIGHT THE DISTINCTION BETWEEN TUNA AND OTHER HIGHLY MIGRATORY SPECIES, AS IS FOUND IN THE MAGNUSON ACT. FYI: US MIGHT NOT OBJECT TO APPLYING SPRFO RECOMMENDATIONS REGARDING BILLFISH WITHIN U.S. ZONE EVEN THOUGH WE EXERT JURISDICTION OVER THESE SPECIES. DECISION WOULD DEPEND ON WHETHER RECREATIONAL FISHING INTERESTS WERE SATISFIED WITH OVERALL REGIME. END FYI.

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PAGE 03 STATE 221948

4. DEPT DOES NOT BELIEVE IT WOULD BE USEFUL FOR EMBASSY TO PURSUE THESE MATTERS WITH GPNG OFFICIALS, BUT IF DABB AND WILSON RAISE ISSUES AGAIN, EMBOFFS SHOULD DRAW ON PARAS 2 AND 3 IN RESPONDING. VANCE

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NNN

## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LAW OF THE SEA, FISH, FISHING LIMITS  
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**Disposition Date:** 20 Mar 2014  
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**Disposition Reason:**  
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**Enclosure:** DG ALTERED  
**Executive Order:** N/A  
**Errors:** N/A  
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**Original Handling Restrictions:** n/a  
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**Review Markings:**  
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